

REMARKS

This communication responds to the Office Action mailed on July 16, 2007. Claims 8-11, 15 and 19-22 are amended, claims 7, 12, 18 and 23 are canceled, and no claims are added. As a result, claims 1, 3-6, 8-11, 13-17, 19-22 and 24-30 are now pending in this application.

Claims Objections

Claims 7, 12, 18 and 23 were objected to for use of “802.11-type” protocols, as being inappropriate for the scope of these claims to change over time. Applicant has canceled claims 7, 12, 18 and 23, therefore the objection to these claims is moot.

§101 Rejection of the Claims

Claims 8-12 and 19-23 were rejected under 35 USC § 101 because the claimed invention is directed to non-statutory subject matter. Applicant has amended claims 8-12 and 19-23 as suggested by the Office, and believes that such amendment has overcome the rejection of these claims under 35 USC § 101. Applicant respectfully requests withdrawal of the rejection of these claims under 35 USC § 101.

§103 Rejection of the Claims

Claims 1, 8 and 11 were rejected under 35 USC § 103(a) as being unpatentable over Okanoué et al. (U.S. 7,158,769 B2, hereinafter “Okanoué”) in view of Kossi et al. (U.S. 6,912,204, hereinafter “Kossi”). Claims 3 and 4 were also rejected under 35 USC § 103(a) as being unpatentable over Okanoué and Kossi in view of Van De Berg (U.S. 5,907,812, hereinafter “VanDeBerg”). Claims 5, 6, 10, 16, 17, 21, 25 and 30 were also rejected under 35 USC § 103(a) as being unpatentable over Okanoué and Kossi in view of Kong et al. (U.S. 2004/0192208 A1, hereinafter “Kong”). Claims 7, 12, 18 and 23 were also rejected under 35 USC § 103(a) as being unpatentable over Okanoué and Kossi in view of Kim et al. (U.S. 2003/0087645 A1, hereinafter “Kim”). Claims 13, 19, 22, 24, 26 and 27 were also rejected under 35 USC § 103(a) as being unpatentable over Kossi in view of Saunders et al. (U.S. 2004/0142696 A1, hereinafter “Saunders”). Claims 28 and 29 were also rejected under 35 USC § 103(a) as being unpatentable

over Okanoué and Saunders and further in view of Banker et al. (U.S. 5,485,221 A1, hereinafter “Banker”).

Applicant does not admit that Okanoué, Kossi, VanDeBerg, Kong, Kim, Saunders, or Banker are prior art, and reserves the right to swear behind these references in the future. Applicant respectfully traverses the rejection of these claims for the reason that no proper *prima facie* case of obviousness has been established, because the proposed combinations do not teach all of the limitations set forth in the claims, and the proposed combinations provide no reasonable expectation of success. Each of these points will be detailed below.

The proposed combinations will not render all claimed elements:

Regarding claims 1, 8 and 11:

Okanoué relates to “a technique which alerts a user to deteriorated communication quality caused by occurrence of interference in a radio communication system.” See Okanoué, col. 1, lines 7-10. The Office admits, “Okanoué does not explicitly disclose the control channel.” Applicant agrees. The Office, relying upon Okanoué, col. 4, line 62 – col. 5, line 10, asserts, “Okanoué discloses a number of channels, a center channel.....” Applicant disagrees. Referring to Okanoué, col. 4, line 62 – col. 5, line 10, with emphasis added:

“The identifier information includes three items of information as follows: 1) **Center frequency of a frequency band** used by the target radio communication system, 2) **Band width of the frequency band**, and 3) Interference level affecting the target radio communication system When the identifier information is inputted (YES in step S1), the information of center frequency F_c and bandwidth W are output to the band selector 2 and the interference level LI is output to the interference decision section 4.”

However, “Band width of the frequency band” of Okanoué does not inherently equal the number of channels, and “Center frequency of a frequency band” of Okanoué does not inherently equal the center channel, for example, it is possible for a smaller frequency band to correspond to a greater number of channels. Okanoué therefore does not operate to specify or disclose a number of channels and a center channel, as asserted by the Office. The alerting device (see Figure 1) and monitoring method (see Figure 2) of Okanoué are for different purposes, e.g., to alert possible interference in radio communication system, and adopt different approaches from claim 1.

The Office, relying upon Okanou, col. 5, lines 40-60, indicates that Okanou discloses “selecting a group of contiguous communications channels including the number of channels, the center channel” as recited in claim 1. Applicant disagrees. Referring to Okanou, col. 5, lines 40-60,

“Since the signals selected by the band selector 2 include signals on the band used by the target radio communication system, it is possible to perform a receiving operation of the transceiver by the baseband transceiver 6 demodulating the received signal to produce a baseband received signal, which is output to the input/output terminal 13. A transmission operation of the transceiver can be performed by the baseband transceiver 6 modulating a transmission signal inputted through the input/output terminal 13 to produce a high-frequency transmission signal, which is transmitted by the RF transmitter 7 through the transmitting antenna 12.

.....

Referring to FIG. 3, the band selector 2 is composed of an oscillator 21, a down converter 22, and a band-pass filter 23. The band selector 2 inputs received radio signals from an input terminal 20 connected to the receiving antenna 10. An oscillation frequency of the oscillator 21 and a passing frequency band of the band-pass filter 23 are controlled depending on respective ones of the center frequency F_c and bandwidth W determined by the identifier information inputted through the input terminal 11”

From the above citation, Applicant was unable to find that Okanou discloses selecting a group of “contiguous communications channels”, based on the parameters including “the number of channels, the center channel, and the control channel” as recited in claim 1, at least because, as noted above, Okanou does not disclose the number of channels and the center channel, and the Office admits that Okanou does not explicitly disclose the control channel.

In summary, Applicant submits that Okanou does not teach specifying a number of channels, a center channel, and a control channel, and then selecting a group of contiguous communications channels based on the specified parameters.

The Office asserts, “Kossi teaches a local channel selector for indicating a control channel among the channel configuration...” Referring to col. 3, lines 25-32, Kossi teaches “Measurements of communication indicia responsive to which a **frequency level** is selected upon which **to define a global control channel** is made at each node at the wireless mesh network.” (emphasis added), that is Kossi defines a **global control channel** based upon a

selected frequency level. However, Kossi fails to disclose selecting a group of contiguous communications channels based on the control channel as recited in claim 1.

Thus, even combined, Okanoué and Kossi do not teach or suggest specifying a number of channels, a center channel, and a control channel, and then selecting a group of contiguous communications channels based on the specified parameters, accordingly does not teach or suggest all the limitations of claim 1. Applicant therefore submits that no proper *prima facie* case of obviousness has been established to claim 1. The arguments presented with respect to claim 1 also apply to independent claims 8 and 11. Applicant respectfully requests reconsideration and allowance of independent claims 1, 8 and 11.

Regarding claims 3 and 4:

The conclusion with respect to claim 1 also applies to claims 3-4, since any claim depending from a nonobvious independent claim is also nonobvious. See MPEP § 2143.03. It is therefore respectfully requested that the rejection of claims 3-4 under 103(a) be reconsidered and withdrawn. Applicant respectfully requests reconsideration and allowance of claims 3 and 4.

Regarding claims 13, 19, 22, 24, 26 and 27:

The Office admits that Kossi “is silent on a signed extension channel offset.” The Office goes on to assert that “Saunders teaches a transmission scheme wherein a number of channels are scanned ... a burst containing a series of +/- ones frequencies (i.e., channels), which read on signed extension channels.” A close reading of Saunders reveals this is not the case.

The cited portion of Saunders teaches that coarse frequency estimation is used to reduce frequency offset (i.e., the frequency offset of the local oscillator at the receiver), and that a beacon preamble burst includes a “clear channel carrier portion 281 ... followed by a field 282 containing an alternating series of ± 1 ’s ... a remote site will proceed to transmit back to the master site a response burst containing only the carrier it has detected in the beacon preamble.” See Saunders, paras. [0032] and [0136]. It is respectfully noted that neither of these concepts have anything to do with the signed extension channel offset claimed by the Applicant. See, e.g., Application, paras. [0017] and [0019]. Thus, no combination of Kossi and Saunders can be applied to render independent claims 13, 19 and 24 as obvious.

The conclusion with respect to claims 19 and 24 also applies to claims 22 and 26-27, since any claim depending from a nonobvious independent claim is also nonobvious. See MPEP

§ 2143.03. It is therefore respectfully requested that the rejection of claims 13, 19, 22, 24, 26 and 27 under 103(a) be reconsidered and withdrawn.

Regarding claims 28 and 29:

The Office admits that Okanoué “is silent on a signed extension channel offset and a display to display information for communication” The Office goes on to assert that “Saunders teaches a transmission scheme wherein a number of channels are scanned ... a burst containing a series of +/- ones frequencies (i.e., channels), which read on signed extension channels.” As discussed above, a close reading of Saunders reveals this is not the case. Thus, no combination of Okanoué, Saunders and Banker can be applied to render independent claim 28 as obvious.

Claim 29 depends on independent claim 28. The conclusion with respect to independent claim 28 also applies to claim 29, since any claim depending from a nonobvious independent claim is also nonobvious. See MPEP § 2143.03. It is therefore respectfully requested that the rejection of claims 28 and 29 under 103(a) be reconsidered and withdrawn.

Regarding claims 5, 6, 10, 16, 17, 21, 25 and 30:

The conclusion with respect to these independent claims 1, 8, 13, 19, 24 and 28 also applies to these dependent claims, since any claim depending from a nonobvious independent claim is also nonobvious. See MPEP § 2143.03. It is therefore respectfully requested that the rejection of claims 5, 6, 10, 16-17, 21, 25 and 30 under 103(a) be reconsidered and withdrawn.

Regarding claims 7, 12, 18 and 23:

Applicant has canceled claims 7, 12, 18 and 23, thus the rejection of these claims is moot.

The proposed combinations provide no reasonable expectation of success: Even if the proposed combinations are made, no reasonable expectation of success arises. This is because none of Okanoué, Kossi, VanDeBerg, Saunders, Kong, Kim, and Banker provides selection of a group of contiguous channels based on a specified number of channels, center channel, and control channel. Further, the frequency offset described by Saunders is related to the frequency offset of the local oscillator at the receiver (which is variable, and has to be estimated), and not to the fixed signed extension channel offset claimed by the Applicant. Thus, one of ordinary skill in the art would not expect that combining these references would produce the claimed embodiments – no proper selection of a contiguous communication channel group would result.

In summary, the references neither teach nor suggest the existence of “first specifying a number of channels, a center channel, and a control channel; and second selecting a group of contiguous communications channels including the number of channels, the center channel, and the control channel”, or the existence of a “signed extension channel offset” as claimed by the Applicant. Thus, independent claims 1, 8, 13, 19, 24, and 28 are nonobvious. All dependent claims are also nonobvious, since any claim depending from a nonobvious independent claim is also nonobvious. See M.P.E.P. § 2143.03.

Further, there is no reasonable expectation of success if the suggested combinations are made. Finally, since one of ordinary skill in the art would not expect the combinations suggested by the Office to provide all of the elements of the claimed embodiments, and since the combinations, even if made, would not function as do the claimed embodiments, there is no motivation to combine the references. Thus, the requirements of M.P.E.P. § 2142 have not been satisfied, and a *prima facie* case of obviousness has not been established with respect to the Applicant’s claims. It is therefore respectfully requested that the rejection of claims 1, 3-6, 8-11, 13-17, 19-22 and 24-30 under 35 U.S.C. § 103 be reconsidered and withdrawn.

Allowable Subject Matter

Claims 9, 14 and 15 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, as discussed above, the Applicant believes that claims 8 and 13 are in condition for allowance. Thus, while claim 15 has been amended to correct a typographical error, the Applicant respectfully declines to amend claims 9 and 14-15 at this time for any other reason.

RESERVATION OF RIGHTS

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant’s silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or

legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (210) 308-5677 to facilitate prosecution of this Application. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ADRIAN P. STEPHENS


By his Representatives,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.

P.O. Box 2938

Minneapolis, Minnesota 55402

(210) 308-5677

By /  /

Mark V. Muller

Reg. No. 37,509